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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE CAPACITORS ANTITRUST LITIGATION

Master File No. 3:14-cv-03264-JD

THIS DOCUMENT RELATES TO: ALL  
ACTIONS

**DIRECT PURCHASER PLAINTIFFS  
AND INDIRECT PURCHASER  
PLAINTIFFS' JOINT  
ADMINISTRATIVE MOTION TO FILE  
UNDER SEAL DISCOVERY LETTER  
BRIEF AND EXHIBIT THERETO**

**[CIVIL L.R. 7-11]**

1 Pursuant to Civil Local Rules 7-11 and 79-5, Direct Purchaser Plaintiffs and Indirect Purchaser  
2 Plaintiffs (together, "Plaintiffs") move the Court for an Order temporarily limiting access to  
3 unredacted versions of a letter brief filed March 5, 2015 ("Letter Brief"), and Exhibit A thereto, filed by  
4 Plaintiffs relating to a dispute that has arisen in connection with jurisdictional discovery against Nippon  
5 Chemi-Con Corporation ("NCC"). Plaintiffs understand that this same information was provided to  
6 the U.S. Department of Justice ("DOJ") as part of a leniency application submitted by one of the  
7 defendants named in this case (the "ACPERA applicant") pursuant to the Antitrust Criminal Penalty  
8 Enhancement and Reform Act of 2004, Pub. L. No. 108-237, § 213(a)-(b), 118 Stat. 665, 66-67 (2004)  
9 ("ACPERA"). Additionally, NCC has designated part of Exhibit A, excerpted in the Letter Brief, as  
10 "Confidential" under the Protective Order. This limitation would be in effect only for the period  
11 between Plaintiffs' filing of their letter brief and the Court's ruling on any requests by the DOJ, the  
12 ACPERA applicant, or NCC for sealing of portions of Exhibit A pursuant to Civil Local Rule 79-5, as  
13 well as Paragraphs 22-24 in Judge Donato's Standing Order for Civil Cases. The scope of this limitation  
14 and the dissemination of the Plaintiffs' unredacted letter brief (including Exhibit A) should be revisited  
15 following the Court's ruling on any requests for sealing and upon subsequent motion by the DOJ or  
16 other interested party.

17 Plaintiffs therefore move to file under seal the portions of the letter brief and Exhibit A  
18 identified in the chart attached at Exhibit 1 to the Declaration of Joseph R. Saveri. A redacted version of  
19 the Letter Brief and Exhibit A thereto has been electronically filed on the public docket. An unredacted  
20 version has been electronically submitted to the Court under seal pursuant to Civil Local Rule 79-5.  
21 Plaintiffs will serve both versions on NCC and provide copies of each to the DOJ.

22 Civil Local Rule 79-5 governs the filing under seal of documents or portions of documents that  
23 contain material that is "privileged, protectable as a trade secret or otherwise entitled to protection  
24 under the law." Civ. L. R. 79-5(b). A party seeking to file a document, or portions thereof, under seal  
25 must file an administrative motion to file under seal. Civ. L. R. 79-5(d)(1). Additional procedures apply  
26 where the submitting party seeks to file under seal material designated as confidential by the opposing  
27 party or a non-party. Civ. L. R. 79-5(e).

1 In compliance with Civil Local Rule 79-5, Plaintiffs submit this Administrative Motion because  
 2 the letter brief and Exhibit A thereto contain information designated confidential by a Defendant  
 3 pursuant to a confidentiality agreement. Additionally, the ACPERA applicant has also designated the  
 4 identity of the ACPERA applicant as confidential, and thus Plaintiffs respectfully request to be excused  
 5 from the provisions of Civ. L.R. 79-5(e) to the extent the Rule obligates Plaintiffs to identify the party  
 6 designating the material to be sealed as confidential. Finally, NCC has designated parts of Exhibit A,  
 7 excerpted in the Letter Brief, as “Confidential” under the Protective Order.

8 Because the material at issue has been designated confidential by another party, it is the burden  
 9 of that party to establish that the designated information is sealable. Civil L.R. 79-5(e)(1); *see Kamakana*  
 10 *v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1178-80 (9th Cir. 2006). Plaintiffs take no position on the  
 11 question of whether the redacted information is “privileged, protectable as a trade secret or otherwise  
 12 entitled to protection under the law.” Civ. L.R. 79-5(b). Accordingly, Plaintiffs submit the attached  
 13 proposed order only to comply with Civ. L. R. 79-5(d)(1)(B). Plaintiffs take no position on whether the  
 14 Court should grant the proposed order.

15 Dated: March 5, 2015

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1 Dated: March 5, 2015

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